

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 7

901 NORTH FIFTH STREET  
KANSAS CITY, KANSAS 66101

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ENVIRONMENTAL PROTECTION  
AGENCY-REGION VII  
REGIONAL HEARING CLERK

BEFORE THE ADMINISTRATOR

IN THE MATTER OF )

Quinten Hamilton and Judy Hamilton )

d/b/a Timber Charcoal Company - Plant #1 )

County Road CC-258 )

Salem, Missouri 65560 )

Respondents )

Docket No. CAA-07-2003-0246

CONSENT AGREEMENT AND FINAL ORDER

The United States Environmental Protection Agency, Region VII (EPA) and Quinten Hamilton and Judy Hamilton, d/b/a Timber Charcoal Company - Plant #1, Salem, Missouri, (Respondents) have agreed to a settlement of this action before filing of a complaint, and thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(B)(2) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. §§ 22.13(b), 22.18(b)(2).

FACTUAL ALLEGATIONS

Jurisdiction

1. This is an administrative action for the assessment of civil penalties instituted pursuant to Section 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d).
2. This Consent Agreement and Final Order serves as notice that EPA has reason to believe that Respondents have violated the provisions governing State Operating Permit

Programs, and specifically the requirement to submit an annual Compliance Certification that identifies each deviation from the terms and conditions of the permit for the period of time covered by the certification pursuant to the Missouri Air Conservation Regulation, 10 CSR 10-6.605, approved pursuant to Title V of the Clean Air Act, 42 U.S.C. § 7661, and that Respondents are therefore in violation of Section 502 of the Clean Air Act, 42 U.S.C. § 7661a. Furthermore, this Consent Agreement and Final Order serves as notice pursuant to Section 113(d)(2)(A) of the Act, 42 U.S.C. § 7413(d)(2)(A), of EPA's intent to issue an order assessing penalties for this violation.

#### Parties

3. The Complainant, by delegation from the Administrator of the EPA , and the Regional Administrator, EPA, Region 7, is the Director, Air, RCRA, and Toxics Division, EPA, Region 7.

4. The Respondents are Quinten Hamilton and Judy Hamilton, d/b/a Timber Charcoal Company - Plant #1, County Road CC-258, Salem, Missouri 65560. Respondents are individual persons.

#### Statutory and Regulatory Requirements

5. On November 15, 1990, the President signed into law the Clean Air Act Amendments of 1990. The Amendments added Subchapter V to the Clean Air Act, 42 U.S.C. § 7661, commonly referred to Title V, which establishes the minimum elements of a permit program to be administered by any air pollution control agency. Section 502(b) of the CAA, 42 U.S.C. § 7661a(b), provides that the Administrator must promulgate regulations establishing the minimum elements of a permit program under Title V of the Clean Air Act.

6. Pursuant to the authority granted under Section 502(b) of the Clean Air Act, 42 U.S.C. § 7661a(b), the Administrator promulgated regulations providing for the establishment of Title V permitting programs, effective July 21, 1992. The regulations subsequently have been amended and are codified at 40 C.F.R. Part 70.

7. Section 503(b) of the Clean Air Act, 42 U.S.C. § 7661b(b), provides that the regulations promulgated under section 502(b) of the Clean Air Act, 42 U.S.C. § 7661a(b), must require the permittee to periodically certify that the facility is in compliance with applicable requirements of the permit and to promptly report any deviations from the permit requirements to the permitting authority.

8. Pursuant to 40 C.F.R. § 70.6(a)(3)(iii)(B) each Title V permit must require prompt reporting of deviations from permit requirements.

9. Pursuant to 40 C.F.R. § 70.6(c)(5) each Title V permit must require the permittee to certify compliance with the terms and conditions contained in the permit.

10. Section 502(d) of the Clean Air Act, 42 U.S.C. § 7661a(d), provides that each state must submit to the Administrator a permit program meeting the requirements of Title V.

11. Section 502(a) of the Clean Air Act, 42 U.S.C. § 7661a(a), provides that it is unlawful for any person to violate any requirement of a permit issued under Title V of the Clean Air Act.

12. EPA promulgated final approval of the Missouri Title V program on June 13, 1997 and the program became effective on that date.

13. Missouri issued to Respondents a Title V permit on March 18, 1999, pursuant to the Missouri approved Title V permit program.

14. The Missouri approved Title V permit program requires that each permittee submit an annual compliance certification for the previous year on April 1<sup>st</sup> of each year.

#### Alleged Violations

EPA alleges that Respondents violated Section 502 of the Clean Air Act, 42 U.S.C. § 7661a, and the Missouri Air Conservation Regulation, 10 CSR 10-6.605, as follows:

15. Respondents are persons as defined by Section 302(e) of the Clean Air Act.

16. On April 11, 2002, the State of Missouri, Department of Natural Resources (MDNR) issued to Respondents a Notice of Violation for failure to submit a semi-annual operating permit monitoring report as required by Respondents' Title V permit, and operating a charcoal kiln in violation of a Consent Order.

17. Respondents did not submit their Title V permit compliance certification to EPA for the calendar year 2002.

18. Respondents' failure to submit a compliance certification violated the Missouri Air Conservation Regulation, 10 CSR 10-6.605, approved pursuant to Section 502 of the Clean Air Act, 42 U.S.C. § 7661a.

#### CONSENT AGREEMENT

19. For purposes of this proceeding, Respondents admit the jurisdictional allegations set forth above.

20. Respondents admit the factual allegations set forth above.

21. Respondents waive their right to a judicial or administrative hearing on any issue of fact or law set forth above.

22. Respondents and EPA agree to conciliate this matter without the necessity of a formal hearing and to bear their respective costs and attorney's fees.

23. Respondents agree to submit an accurate compliance certification for calendar year 2002 to MDNR and EPA by July 15, 2003.

24. Respondents consent to the issuance of the Final Order hereinafter recited and consent to the payment of the civil penalty as set forth below.

25. Respondents understand that the failure to pay any portion of the civic penalty assessed herein in accordance with the provisions of this order may result in commencement of a civil action in Federal District Court to recover the total penalty, together with interest at the applicable statutory rate.

#### FINAL ORDER

Pursuant to the provisions of the Clean Air Act, 42 U.S.C. § 7401, and based upon the information set forth in this Consent Agreement, IT IS HEREBY ORDERED THAT:

1. Respondents shall pay a civil penalty of One Thousand Dollars (\$1,000), within thirty days of entry of this Final Order. Payment shall be by cashier's or certified check made payable to the "United States Treasury" and shall be remitted to:

EPA-Region VII  
Attn: Regional Hearing Clerk  
c/o Mellon Bank  
Post Office Box 360748M  
Pittsburgh, Pennsylvania 15251.

2. A copy of the check should be sent to:

In the Matter of  
Quinten Hamilton and Judy Hamilton  
d/b/a Timber Charcoal Company - Plant #1

Julie M. Van Horn  
EPA-Region VII  
Office of Regional Counsel  
901 North Fifth Street  
Kansas City, Kansas 66101.

3. Respondents and Complainant shall bear their own costs and attorney's fees incurred  
as a result of this matter.

COMPLAINANT:  
UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY

By   
Julie M. Van Horn  
Senior Assistant Regional Counsel

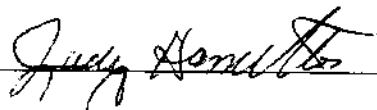
Date 14 July 2003

RESPONDENTS:  
QUINTEN HAMILTON

By 

Date 7-11-03

JUDY HAMILTON

By 

Date 7-11-03

In the Matter of  
Quinten Hamilton and Judy Hamilton  
d/b/a Timber Charcoal Company - Plant #1

IT IS SO ORDERED. This Final Order shall become effective  
immediately.

By Karina Borrromeo  
Karina Borrromeo  
Regional Judicial Officer

Date July 15, 2003

IN THE MATTER OF Quinten Hamilton and Judy Hamilton d/b/a Timber Charcoal Company, Plant #1,  
Respondents  
Docket No. CAA-07-2003-0246

CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Final Order was sent this day in the following manner to the addressees:


Copy hand delivered to  
Attorney for Complainant:

Julie M. Van Horn  
Senior Assistant Regional Counsel  
Region VII  
United States Environmental Protection Agency  
901 N. 5<sup>th</sup> Street  
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

Quinten Hamilton and Judy Hamilton  
Timber Charcoal Company - Plant #1  
County Road CC-258  
Salem, Missouri 65560

Dated: 7/16/03

  
Kathy Robinson  
Regional Hearing Clerk